

Appln No. 09/944,534
Amdt date January 10, 2006
Reply to Office action of September 27, 2005

REMARKS/ARGUMENTS

Applicants thank the Examiner for his careful consideration of this application. In response to the above identified Office Action, Applicants amend the application and seek reconsideration and allowance thereof. In this response, Applicants do not amend or cancel any claims. Applicants add new claims 38 and 39. Accordingly, claims 1-39 are pending.

I. Claims Rejected Under 35 U.S.C. § 102

Claims 1-37 stand rejected under 35 U.S.C. § 102 as being obvious over U.S. Patent No. 5,715,164 issued to Liechti et al (hereinafter "Liechti"). Applicants respectfully request that the rejection be reconsidered and withdrawn.

To establish anticipation, the Examiner must show that the cited reference teaches each of the elements of a claim. Claims 1, 21 and 33 include the elements "resetting balance of said free postage *upon expiration of said free postage*" or "means for resetting balance of said free postage *upon expiration of said free postages.*" (emphasis added). Applicants believe that Liechti fails to teach this element of claims 1, 21 and 33. The Examiner has cited col. 9, lines 26-28 of Liechti as teaching these elements of the claims. However, Applicants have reviewed this section of Liechti and have been unable to discern any part therein that teaches that a reset of a balance is done "upon expiration of said free postage." Rather, the cited section refers to the resetting of a meter upon the receipt of a reset command. Applicants have been unable to discern any part of Liechti that teaches the tracking of the expiration of free postage, much less, the resetting of a balance upon the expiration of the free postage.

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In fact, the Applicants have been unable to discern any part of Liechti that teaches the use of free postage. Rather, Liechti teaches the use of "charge classes" that each have upper and lower bound values. Applicants have been unable to discern any part of Liechti that discloses an actual range of possible charge class values. However, since the classes are 'charge' classes, an implication is made that any value greater than zero may be used. Someone is not charged for something that is free. We believe the relevant definition for charge is "an expenditure or incurred expense." See Webster's Third International Dictionary, definition 5a. Based on this definition of 'charge,' charge classes do not teach the elements of this claim because there is no expenditure or incurred expense for free postage. Thus, the Examiner has failed to establish that Liechti teaches each of the elements of claims 1, 21 and 33. Therefore, the Examiner has failed to establish that Liechti anticipates claims 1, 21 and 33. Accordingly, reconsideration and withdrawal of the anticipation rejection of claims 1, 21 and 33 are requested.

In regard to claims 2-20, 22-32 and 34-37, these claims depend from independent claims 1, 21 and 33, respectively, and incorporate the limitations thereof. Thus, at least for the reasons mentioned in regard to 1, 21 and 33, these claims are not anticipated by Liechti. Accordingly, reconsideration and withdrawal of the anticipation rejection of these claims are requested.

II. New Claims

Applicants believe that the elements of claims 38 and 39 are not taught or suggested by the cited references and are therefore in condition for allowance.


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CONCLUSION

In view of the foregoing, it is believed that all claims now pending, namely claims 1-39 patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (626) 795-9900.

Respectfully submitted,

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